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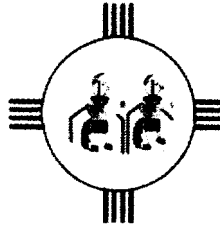
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GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS
GALLUP, NEW MEXICO 87305-1318

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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May 10, 2001

Michael K. Powell, Chairman
Federal Communications Commission
445 12th St SW
Washington, DC 20554

Re: Further Notice of Proposed Rule Making and Order, CC Docket No. 96-45, /
Released April 30, 2001

Dear Sir:

Gallup-McKinley County Schools is going on record opposing the above referenced action. GMCS is one of the largest school districts in the nation serving Native American students. GMCS is a rural district with a high incidence of low socioeconomic status. As a result, without the E-rate program, GMCS would be unable to provide the level of technology that is becoming more and more essential to the educational well being of our students.

The proposed rule change that denies a school access to Priority Two discounts if the school received Priority Two discounts in the previous program year unfairly penalizes GMCS. Since the program requires schools to commit matching funds, we have budgeted limited local resources to implement the district's vital technology plans based on the receipt of discounts from the Schools and Libraries Division. Because of limited local funds, necessary internal wiring must be scheduled over several years. By limiting the school district to priority two funding every other funding year, our technology plan, designed to be implemented over a 5-year period, will be extended to a 10-year period.

We recognize the total amount of funding available in the program year is less than half of the total amount represented in applications received during the filing window. The most desirable course of action that will benefit every school is to increase funding for E-rate and leave the rules concerning E-rate intact. (The FCC, reportedly, has been returning excess E-rate funds to carriers like AT&T, MCI, etc. to reduce their USF contributions. There is no indication that these carriers have returned these funds to the rate paying public by reducing their USF

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contributions.) Initially, the Federal–State Joint Board on Universal Service [which is composed of regulators from various states] recommended a cap of approximately \$5B for E-rate. In hindsight, this was closer to the needs of the schools.

The goal of the SLD, as we understand it, is to provide access to the Internet to every classroom, specifically to schools in rural, low socioeconomic districts. To effectively utilize the Internet in an educational environment, internal wiring is essential. Newly approved services that are essential to the effective management of the complex network we have installed, as a result of discounts received in previous years, will not be available to GMCS.

If increasing the total available funding is not possible, it is preferable to institute a pro-rata distribution of available funds to all school's in a discount band. Prorate the current amount available for priority two services (\$900M) to the most needy districts. This is a simple and straightforward solution. This would insure that districts that have already made an effort at building or maintaining a network would not have a stranded investment. (Stranded investment means that the District received funds last year but under the proposed FCC rule would receive no funds this year. Thus, the investment made last year is rendered meaningless.) Projects can be completed in phases and gain significant district benefit if at least some funds are available. For example, cabling some schools is better than cabling none. With this distribution, districts could implement their technology plans on a smaller scale and continue serving more children with technology.

Additional points that must be considered in evaluating the appropriateness of the proposed rule change:

- Gallup McKinley County Schools has made an incredible effort to request E-rate funding. This includes considerable technology planning at various levels, developing a funding strategy including E-rate, procurement process, obtaining administrative approval, and obtaining Board of Education approval. This process and effort is repeated each year and the year four effort already made will be lost if the FCC's proposed rule is implemented.
- The Gallup McKinley County Schools Board of Education will be reluctant to authorize a year five effort necessary to develop an appropriate E-rate application if they believe the fund is not reliable or predictable. District Technology Center staff is over-committed and the time spent preparing an E-rate application may be pre-empted for a "more useful" task if it is perceived that the time will have been wasted due to rule changes following closure of the application window.
- A strong argument can be made that services currently categorized as priority one are of limited use without some degree of the services currently categorized as priority two by the SLD. A telecommunications infrastructure funded by E-rate without a corresponding commitment and ability to maintain and manage that infrastructure, is actually a burden on a participating district rather than a benefit.
- The FCC proposal shows a concern for districts under 90% discount and seems to desire spreading the funding down to them instead of funding 90% schools for "several consecutive years". This proposed rule would have the effect of producing uncertainty for all districts and make it unlikely that E-rate would continue as a strategic resource for

any district, regardless of discount. The effective use of E-rate is for implementation of strategic projects that are part of a technology plan. If E-rate is not predictable, its use is limited to projects only considered after funding is achieved and do not necessarily reflect the district vision.

- Changes to E-rate to address limited funding are ill advised for year four because so much planning and effort has already been expended. Changes announced ahead of application filing for year five will help districts adapt their needs and plans to what they can expect from E-rate. Not only is the huge effort wasted, but also the impact on what to expect in the future is large and unpredictable. The value of E-rate as a strategic funding source would be discounted by districts because it would not justify the effort to make E-rate a part of their strategic plans.
- The current funding cap of \$2.25 billion is clearly insufficient to meet the demand of disadvantaged schools and libraries. Independent studies performed at the onset of the E-rate program indicated that an annual funding cap of \$5 billion would be an appropriate starting point. It would appear now that those studies were largely accurate.

Thank you for allowing comment on this proposed rule change. Gallup McKinley County Schools would prefer to see an increase of available funds to cover the needs evident from the applications received. The funding is apparently available from the USF funds collected. The current funding cap was set artificially low. The needs obviously exist as demonstrated by the applications filed within the funding window. FCC should be considering a rule change to allow the SLD to meet the critical needs of schools, not rejecting a school's application. Rejecting the application punishes the school for the hours spent in developing the plan and financial budgeting needed to implement the plan.

Sincerely yours,


Robert Gomez
Superintendent

CC: Susan Ness, Commissioner
Harold W. Furchtgott-Roth, Commissioner
Gloria Tristani, Commissioner